

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

IRON WORKERS DISTRICT
COUNCIL OF SOUTHERN OHIO
& VICINITY BENEFIT TRUST, et al.,

Plaintiffs,

Case No. 3:04-cv-126

-vs-

Chief Magistrate Judge Michael R. Merz

CORNWELL STEEL ERECTION
CORP., et al.,

Defendants.

DECISION AND ORDER GRANTING MOTION TO DISMISS COUNTERCLAIM

This case is before the Court on Plaintiffs' Motion to Dismiss Defendants' Counterclaim (Doc. No. 12). Defendant was required by S. D. Ohio Civ. R. 7.2 to respond to that Motion by May 27, 2005. The Court later extended the time by over a month to allow Defendants to obtain new counsel. However, the extended time for response has now expired and no response has been filed.

Upon review of the arguments made by Plaintiffs in their Motion, the Court finds the Motion is well taken. ERISA does not provide relief in the form demanded by Defendants who also lack standing to make any such claim. Accordingly, the Motion is granted and the Counterclaim is ordered dismissed with prejudice.

July 16, 2005.

s/ **Michael R. Merz**
Chief United States Magistrate Judge